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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABOVE THE CEILING, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

WESTERN ARCHITECTURAL SERVICES,
LLC, a Utah limited liability company; THE
HASKELL COMPANY, a foreign corporation;
CORPORATION OF THE PRESIDENT TO
THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS, a foreign non-profit
corporation; TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA, a foreign
corporation; DOES I through XX; and ROE
CORPORATIONS XXI through XL,

Defendants.

WESTERN ARCHITECTURAL SERVICES,
LLC, a Utah limited liability company,

Counterclaimant,

vs.

ABOVE THE CEILING, LLC, a Nevada limited
liability company,

Counter-defendant,

CASE NO: 2:15-cv-01766 JAD-GWF

**JOINT MOTION BY DEFENDANTS
AND ~~PROPOSED~~ ORDER TO
EXTEND DISCOVERY DEADLINES
PURSUANT TO LR 26-4**

(FIRST REQUEST)

1 Defendants Western Architectural Services, LLC (“Western Architectural”) and
2 Corporation of the President to the Church of Jesus Christ of Latter-day Saints (the “LDS
3 Church”) (collectively referred to herein as “Defendants”) jointly move this Court for an
4 extension of all applicable discovery deadlines. Defendants have attempted to obtain a
5 stipulation from Plaintiff Above the Ceiling, LLC (“Above the Ceiling”) for this
6 extension, and they do not believe there is any opposition to this request, but to date they
7 have not received a response. This is the first requested extension of the discovery
8 deadlines.

9 **I.**

10 **Discovery Completed**

11 The parties have submitted initial disclosures, and written discovery has taken
12 place or is underway. Western Architectural recently provided responses to Plaintiff’s
13 Requests for Production of Documents and Interrogatories, and currently pending are
14 Western Architectural’s Requests for Production of Documents propounded to Plaintiff.
15 Western Architectural has also noticed the deposition of Jerry Williams, one of the
16 principals of Above the Ceiling, LLC, which is scheduled to take place on July 21, 2016.
17 For its part, the LDS Church has been in discussions regarding resolution of the case
18 upon presentation of certain information regarding payment of the sums claimed by
19 Above the Ceiling, but these discussions have not yet resulted in a final resolution.

20 **II.**

21 **Discovery to Be Completed**

22 The amount of discovery to be completed will depend in part upon whether the
23 LDS Church remains in the case. This action involves claims by Above the Ceiling that it
24 was not fully paid for work on an LDS temple located in Tijuana, Mexico. The LDS
25 Church has offered proof that it made all payments required of it under the construction
26 contracts, and upon satisfactory information being provided, the LDS Church anticipates
27 that it will no longer be part of this case. Defendants The Haskell Company and
28

Travelers Casualty and Surety Company of America were previously dismissed from the case on October 19, 2015 (Doc. #16.)

If the LDS Church remains in the case, it will need to take depositions of Above the Ceiling's corporate representative and seek documents from Above the Ceiling regarding the claims being made in the case.

For its part, Western Architectural anticipates that additional document requests and 2-3 depositions will be necessary after the deposition of Jerry Williams is completed. Among the depositions that remain is the deposition of Arturo Spencer, a former Above the Ceiling employee who is alleged to have absconded with substantial funds delivered by Western Architectural for the purpose of paying employees on the jobsite. Western Architectural believes and alleges that Mr. Spencer fled the project in Mexico and may be located in Nevada currently, and it has been attempting to locate and serve him with a deposition subpoena.

It is not known what additional discovery, if any, Plaintiff Above the Ceiling believes it needs to complete.

III.

Reasons Additional Time Is Required and Good Cause Therefore

Good cause exists to extend discovery because the parties have attempted to work toward resolution of the case through both informal and formal discovery, and the parties anticipate that the additional time permitted to complete discovery will allow the full investigation into the facts of payment and work completed at the construction project at issue. In addition, with the difficulty in locating Arturo Spencer, some additional time is necessary to allow Western Architectural to attempt to locate this individual to obtain information that may be critical to the case. The parties believe that a 60-day extension will be sufficient to allow all matters to be investigated so that the parties will have the information necessary to prepare the case for trial if resolution cannot be reached.

IV.

Proposed Schedule

The current schedule has discovery closing on July 22, 2016. The parties seek approximately 60 additional days to complete discovery, according to the following proposed schedule.

Interim Status Report (LR-26-3): Already submitted.

Discovery cutoff: September 20, 2016

Amending pleadings: Closed.

Initial/rebuttal expert designations: Closed.

Dispositive motions: October 20, 2016

Pretrial Order: the joint pretrial order shall be filed no later than thirty (30) days after the date set for filing dispositive motions. In the event additional dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until thirty (30) days after the decision of the dispositive motions or further order of the court.

Dated: July 1, 2016

KOCH & SCOW, LLC

/s/ David R. Koch
David R. Koch
Attorneys for Western Architectural
Services, LLC

Dated: July 1, 2016

LEWIS ROCA ROTHGERBER CHRISTIE LLP

/s/ John Bragonje
John Bragonje
Attorneys for Corporation of the President to the
Church of Jesus Christ of Latter-day Saints

Dated: July 5, 2016

IT IS SO ORDERED:

George Foley Jr.
UNITED STATES MAGISTRATE JUDGE